

## **POLAND 2013 HUMAN RIGHTS REPORT**

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### **EXECUTIVE SUMMARY**

Poland is a republic with a multi-party democracy. The bicameral parliament consists of an upper house, the Senate (Senat), and a lower house (Sejm). The president, the prime minister, and the council of ministers share executive power. Observers considered the parliamentary elections in 2011 free and fair. Prime Minister Donald Tusk, leader of the Civic Platform Party, governed in a coalition with a smaller political party. Authorities maintained effective control over the security forces. Security forces did not commit human rights abuses.

Among the country's principal human rights problems were an inefficient judicial system and lengthy court procedures, which impeded the delivery of justice. Xenophobic and racist incidents increased, including hate crimes involving arson and cases of anti-Semitism. Local nongovernmental organizations (NGOs) noted that the government's methods for tracking hate crimes improved, but police investigations of cases involving anti-Semitic and xenophobic acts often did not lead to the apprehension of perpetrators. Criminal defamation laws restricted freedom of speech and press by discouraging speech, publications, and material on the internet critical of public officials.

Other human rights problems included abuse of prisoners by guards, compulsory chemical castration of some convicted sex offenders, and at times inadequate cell space in detention centers. Delays in the restitution of private property continued. The law allows law enforcement agencies to have broad access to data, but government monitoring of telephone locations and call logs decreased from the previous year. Official corruption remained a problem, despite enforcement efforts. Burdensome procedures discouraged appropriate classification and treatment of domestic violence as a crime. Societal problems included discrimination against women in the labor market, abuse and sexual exploitation of children, trafficking in persons, and discrimination and violence against ethnic minorities as well as lesbian, gay, bisexual, and transgender (LGBT) persons. Violations of workers' rights to organize and join unions and to strike, as well as antiunion discrimination also occurred.

The government generally enforced human rights and took steps to prosecute officials who committed abuses, whether in the security services or elsewhere in government.

**Section 1. Respect for the Integrity of the Person, Including Freedom from:****a. Arbitrary or Unlawful Deprivation of Life**

There were no reports that the government or its agents committed arbitrary or unlawful killings. The prosecutor's office examines killings by members of the security forces to determine whether they occurred in the line of duty or were otherwise justifiable.

**b. Disappearance**

There were no reports of disappearances or politically motivated kidnappings or abductions.

**c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The constitution and law prohibit such practices. There were problems, however, with police misconduct and corrections officers' abuse of prisoners. The law lacks a clear legal definition of torture, which authorities did not report as a separate crime. The law outlines disciplinary actions for police, which include reprimand, demotion in rank, and dismissal. As of November 14, the ministry had not implemented new regulations regarding the use of force by prison guards. Civil society groups noted cases of police misconduct against persons in custody. In one example, on June 20 a prosecutor indicted five police officers in Siedlce for using violence to extract testimony from three men arrested for robbery in August 2012.

Judges have the option of ordering compulsory chemical castration for an offender convicted of either rape or incest in which the victim is younger than 15. Judges may order the procedure for convicted pedophiles at any time up to six months before their expected release. According to justice ministry statistics, the courts ordered the procedure for 16 pedophiles in 2012, compared with 14 in 2011. According to media reports, as of June, three pedophiles were undergoing treatment in one of the hospitals designated to provide such treatment.

**Prison and Detention Center Conditions**

Prison and detention center conditions generally met international standards; however, prison medical staff vacancies and limited prisoner access to specialized medical treatment continued to be a problem, and there were reports that prison

service personnel at times abused inmates. The government permitted monitoring visits by independent human rights observers.

Physical Conditions: Government statistics indicated that as of August 31, prisons and detention facilities held 83,610 persons (including pretrial detainees) in facilities with a capacity for 83,585 persons; of these, 2,865 prisoners (3 percent of the prison population) were women. As of September 30, 331 persons under the age of 18 were imprisoned. While authorities generally separated juveniles from adults, the law allows them to share housing in prisons and detention centers in exceptional cases. Authorities usually sent juveniles (persons between 17 and 21 years old) accused of serious crimes to pretrial detention.

As of August 31, according to the Central Prison Authority, there were 6,767 pretrial detainees, a decrease of 624 from November 2012.

Authorities often held pretrial detainees in prisons pending trial, but in areas separate from convicts. Conditions for pretrial detainees were generally similar to those for prisoners but on occasion were worse due to overcrowding and poorer facilities resulting from court-mandated restrictions on where a prisoner should be located while awaiting trial.

The law sets the minimum cell size at 32 square feet per person, but prisoners may occupy smaller cells for a limited time. As of the end of September, 260 detainees were in cells smaller than the legally mandated minimum, according to government statistics. Prisoners had access to potable water.

In June the ombudsman for citizen rights stated that overcrowding remained the principal problem in the country's detention facilities. The ombudsman noted that prisons had converted common spaces (such as community rooms and chapels) into regular cells to increase capacity, with a negative effect on the process of prisoners' social reintegration.

During the first nine months of the year, 82 prisoners died in prison, including 12 reported to have committed suicide. During the year a report by the Helsinki Human Rights Foundation described systemic problems with medical care in prisons. These included inadequate medical staffing – for instance, a lack of specialized medical care and too few doctors to handle the workload – and poor medical infrastructure. The report also listed a number of specific problems raised by individual prisoners, such as inadequate care for prisoners with disabilities and

facilities unequipped for the needs of elderly prisoners. The report was the result of a two-year assessment of medical care in detention facilities around the country.

Administration: Recordkeeping on prisoners was adequate. To reduce the number of inmates in detention, the Ministry of Justice continued to expand a system of electronic surveillance that allowed nonviolent offenders to serve their sentences outside detention facilities. Through September 30, according to media reports, 19,230 persons served their prison sentences outside detention facilities.

Prisoners may file complaints without censorship with prison officials, a prison ombudsman, the national ombudsman, the Ministry of Justice, or local NGOs, and prisoners did so. During the first nine months of the year, the national ombudsman received 3,169 complaints from prisoners and relatives, compared with 7,869 in all of 2012. Of these complaints, 12 percent dealt with medical treatment, 8 percent with prison conditions, and 7 percent with denial of parole.

Authorities investigated credible allegations of inhumane conditions and documented their findings in a publicly accessible manner. The ombudsman can join proceedings in civil and administrative courts on behalf of prisoners and detainees, either when these have filed a complaint or when information otherwise leads to an allegation of inhumane conditions. At the request of the Ministry of Justice, the ombudsman for citizen rights administers the national preventive mechanism to investigate and monitor prison and detention center conditions. The Office of the Ombudsman publishes its findings and a summary of its recommendations to relevant authorities in an annual report.

Prisoners and detainees had reasonable access to visitors and could participate in religious observance.

Independent Monitoring: The government allowed independent monitoring of prison conditions and detention centers on a regular basis by the ombudsman for citizen rights. During the first nine months of the year, the ombudsman visited 29 prison and detention facilities, including pretrial and juvenile detention centers, as well as guarded centers for asylum seekers. Between June 5 and 17, a delegation from the Council of Europe's Committee for the Prevention of Torture (CPT) conducted its fifth periodic visit to the country. The CPT visited prison facilities, border-guard detention centers, and police departments. The CPT did not release its report on the visit during the year.

#### **d. Arbitrary Arrest or Detention**

The constitution and the law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

### **Role of the Police and Security Apparatus**

The police force is a national law-enforcement body with regional and municipal units overseen by the Ministry of Interior. The Internal Security Agency has responsibility for investigating and combating organized crime, terrorist threats, and proliferation of weapons of mass destruction. The Central Anticorruption Bureau (CBA) is responsible for combating government, business, and financial corruption. Both the Internal Security Agency and the CBA report directly to the prime minister.

Civilian authorities maintained effective control over the security forces, and the government had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

### **Arrest Procedures and Treatment of Detainees**

In most cases the constitution and the law require authorities to obtain a court warrant based on evidence to make an arrest, and authorities generally complied with the law. The constitution and the law allow detention of a person for 48 hours before authorities must file charges and an additional 24 hours for the court to decide whether to order pretrial detention. Authorities must promptly inform detainees of the charges against them and generally did so. Detained persons may appeal the legality of their arrest, and the government respected this right. There was a functioning bail system, and authorities released most detainees on bail. Only a court could order pretrial detention. Detainees have the right to counsel; the government provided free counsel to indigent defendants. Defendants and detainees have the right to consult an attorney at any time. Authorities did not hold suspects incommunicado or under house arrest.

**Pretrial Detention:** The law permits authorities to detain persons charged with a crime for up to three months. Authorities transferred most juveniles to a remand facility within 72 hours of detention. A court may extend pretrial detention every six to 12 months, but the law specifies that the total time in detention may not exceed two years (in certain complex cases, the court may petition the Supreme Court for an extension beyond two years). In 2012, the last year for which

statistics were available, prosecutors requested pretrial detention for 22,330 persons, a decrease of 3,122 from 2011. As of December 2012, there were 3,393 persons in pretrial detention, with 68 percent in detention for up to three months and almost 1.5 percent (47 persons) for between one and two years; nobody was been held in pretrial detention for longer than two years.

Detention of Rejected Asylum Seekers or Stateless Persons: Authorities placed some asylum seekers in guarded centers for foreigners while they awaited deportation or decisions on their asylum applications. Border guards may only place an individual in a guarded center by court order, and this typically involved foreigners who had already attempted to cross the border illegally or lacked identity documents. According to the Office of the UN High Commissioner for Refugees (UNHCR), border guards no longer placed families with children into guarded centers, but no specific legislation prohibits their doing so. The law prohibits the placement of unaccompanied minors in guarded centers.

Hunger strikes that took place in guarded centers from mid-October to early November 2012 led to some improvements in the guarded centers' operating procedures. According to the UNHCR, all detainees staying in the center could spend more free time in open areas and had better access to recreational activities and libraries.

#### **e. Denial of Fair Public Trial**

While the constitution provides for an independent judiciary and the government generally respected judicial independence, the judiciary remained inefficient and did not enjoy public confidence.

The court system remained cumbersome, poorly administered, and inadequately staffed. The consensus among local human rights NGOs was that the judicial system was improperly structured and inefficient, with a poor division of labor between different courts. In addition cumbersome hiring procedures created many vacancies among judges and support staff, further slowing the justice system. According to the General Prosecutor's Office, while the overall number of prosecutors was large (5,905 in 2012, the most recent year for which data were available), the number who dealt with criminal offenses was inadequate. A continuing backlog of cases and the high cost of legal action deterred many citizens from using the justice system.

The country employs an “e-court” to adjudicate simple cases, which typically involved unpaid utility bills. A party can file a civil claim on the e-court’s website for monetary damages, and a judge can issue a writ of payment based on the electronic submission. Commercial and labor claims are eligible for adjudication by the e-court, although nonmonetary and family law cases are not. Defendants who dispute the judgment have recourse to a regular court for trial. During the first six months of the year, the e-court received 1.7 million cases.

### **Trial Procedures**

The constitution provides for the right to a fair trial, and the judiciary generally enforced it. Defendants enjoy a presumption of innocence and the right to prompt and detailed notification of the charges against them. The government provides interpretation for defendants who do not speak Polish. Trials are usually public, although the courts reserve the right to close a trial in some circumstances, including divorce proceedings, cases involving state secrets, and cases whose content may offend public morality. The law provides for juries, usually composed of two or three individuals appointed by local officials. In regional and provincial courts, a panel of one judge and two lay assessors tries cases. Indigent defendants may consult an attorney provided without cost. The government must provide defendants and their attorneys adequate time and facilities to prepare a defense. Defendants must be present during trial. They may have access to government-held evidence, confront and question witnesses, and present witnesses and evidence on their own behalf. Prosecutors may grant witnesses anonymity if they express fear of retribution from defendants. Defendants may not be compelled to testify or confess guilt.

After a court issues a verdict, a defendant has seven days to request a written statement of the judgment; courts must respond within seven days. A defendant has the right to appeal a verdict within 14 days of the response. A two-level appeal process is available in most civil and criminal matters. These rights extend to all defendants.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Individuals or organizations may seek civil remedies for human rights violations. The government's implementation of court orders, particularly for payment of damages, remained slow, cumbersome, and ineffective.

After they exhaust remedies available in the domestic courts, persons have the right to appeal court decisions involving alleged violations by the state of the European Convention on Human Rights to the European Court of Human Rights (ECHR).

### **Regional Human Rights Court Decisions**

During the year there were binding ECHR judgments against the country; the government generally complied with court orders. The Justice and Human Rights Committee of the Sejm and the Human Rights Committee of the Senate organized hearings on the enforcement of ECHR judgments.

On March 26, the Ministry of Foreign Affairs issued the first-ever report on the implementation of ECHR judgments by the government. The report provided detailed information on procedures for implementing court judgments, particularly in the most problematic areas identified by the judgments, including lengthy court procedures and pretrial detention, prison overcrowding, and poor medical care in prisons.

On September 24, the National Bar Association criticized the government for not implementing ECHR judgments effectively. The National Bar Association identified such problems as lengthy trial procedures, lengthy pretrial detention, denial of the right to a fair trial, prison overcrowding, and poor medical care in prisons. It urged closer interagency collaboration between responsible government authorities and ministries to implement successfully ECHR judgments.

### **Property Restitution**

The law provides for restitution of communal property seized during the Communist and Nazi eras, but the process proceeded very slowly during the year. No comprehensive law addresses the return of or compensation for private property; however, individuals may seek the return of confiscated private property through the courts. In October a court ordered the eviction of a commercial tenant who was unlawfully using a building that Communist authorities confiscated in 1950. This eviction completed the process of returning the property to the family



that had previously owned it and which had regained legal ownership of the property through a court verdict in 2010.

In November, Colette Avital, secretary of the World Jewish Restitution Organization and chairwoman of the Center of Organizations of Holocaust Survivors in Israel, and Lilli Haber, president of the Association of Polish Jews in Israel, wrote an open letter to President Komorowski, contending that the government had not taken significant action to return formerly Jewish-owned private property that was lost during the Holocaust. They appealed for restitution of the property or fair and timely compensation for it and for the creation of a simple claims process, including easy access to relevant archives.

#### **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The law allows electronic surveillance with judicial review for crime prevention and investigation. Human rights groups have asserted that legal protections against unwarranted government access to private communications are weak.

In 2012 the ombudsman and prosecutor general filed complaints with the Constitutional Court concerning the legality of provisions giving law enforcement agencies and special services broad access to telephone records. As of December 31, the Constitutional Court had not ruled on the complaints. The Supreme Audit Office has determined that there is not an independent body in the country to verify the legitimacy of obtaining and using phone records and recommended a number of reforms in this area to the government.

There were no reports during the year that the government engaged in wiretapping without judicial review.

### **Section 2. Respect for Civil Liberties, Including:**

#### **a. Freedom of Speech and Press**

While the constitution provides for freedom of speech and press, there are laws that restrict these freedoms. The government and courts have either upheld or instituted laws that criminalize defamation by individuals and the media and limit editorial independence.

Freedom of Speech: The law prohibits hate speech, including the dissemination of anti-Semitic literature and the public promotion of fascist, communist, or other

totalitarian systems. Defamation is a criminal offense and includes publicly insulting or slandering members of the parliament, government ministers, or other public officials, as well as private entities and persons. Defamation outside the media is punishable by a fine and community service. The maximum sentence for insulting the president is three years' imprisonment. The courts rarely applied maximum penalties, and persons found guilty of defamation generally faced only fines. According to Ministry of Justice statistics for 2012, courts convicted one person for insulting constitutional organs of the government. Of the 239 persons convicted of public defamation in 2012, 179 committed defamation outside the media.

On October 3, citing the two-year statute of limitations for civil cases, a Bialystok court decided to drop a case against 11 soccer fans charged with offending Prime Minister Donald Tusk and disturbing the peace by shouting anti-Tusk slogans during a demonstration in Bialystok in May 2011.

Press Freedoms: The government can prosecute libel and defamation carried out through the mass media as a criminal offense, punishable by fines and imprisonment for up to one year. While journalists have never received the maximum penalty in defamation cases, the risk of facing criminal charges may discourage them from addressing sensitive subjects, according to some analysts. Moreover, media owners, particularly of small local independent newspapers, were aware that potentially large fines could threaten the financial survival of their publications. In 2012 the courts convicted 60 persons of criminal defamation in the mass media: They fined 46, sentenced eight to limitations on their freedom (including public service), deducted funds from the salary of one, and gave three suspended prison sentences. The convicted individuals included politicians who pressed charges against each other, academics and experts who gave interviews or wrote articles for the media, and a few journalists.

Censorship or Content Restrictions: The constitution provides for freedom of the press and social communication and the right to acquire and disseminate information and prohibits censorship of the press or social communication. At the same time, the law prohibits, under penalty of fines, the promotion of activities against government policy, morality, or the common good and requires that all broadcasts "respect the religious feelings of the audiences and, in particular, respect the Christian system of values." The government rarely enforced this provision. The law also places some limits on editorial independence, for example, by specifying that journalists must verify quotes and statements with the person who made them before publication.

The National Radio and Television Broadcasting Council, a five-member body appointed by the Sejm (two members), the Senate (one member), and the president (two members), is responsible for protecting freedom of speech and has broad power to monitor and regulate programming, allocate broadcasting frequencies and licenses, apportion subscription revenues to public media, and impose financial penalties on broadcasters. While council members are required to suspend their membership in political parties and public associations, critics asserted that the council remained politicized.

On July 5, after an extended, contentious process, the National Radio and Television Broadcasting Council adopted a resolution granting a digital broadcasting license to the Roman Catholic television outlet, TV Trwam.

### **Internet Freedom**

There were no government restrictions on access to the internet or credible reports that the government monitored e-mail or internet chat rooms without appropriate legal authority. The law against defamation, which restricts freedom of speech, applies to the internet as well. In 2012, according to data from the International Telecommunication Union, 65 percent of the population used the internet.

On January 17, the Lodz Appeals Court overturned the September 2012 verdict of the district court in Piotrkow Trybunalski, which had sentenced Robert Frycz to 10 months of community service for insulting the president. Frycz was the editor of a website that published satirical materials about the president and hosted games such as Komor Killer, in which players fired virtual vegetables at the president in effigy.

### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

## **b. Freedom of Peaceful Assembly and Association**

### **Freedom of Assembly**

The constitution and law provide for freedom of assembly, and the government generally respected it.

On March 4, the ombudsman sent a complaint to the Constitutional Court on the revision of the law on public assembly. The complaint referred to an amendment adopted in October 2012, which introduced restrictions on peaceful assemblies in certain cases, such as a prohibition against simultaneous demonstrations in the same location if they might pose a threat to public order. On May 30, the UN special rapporteur on the rights to freedom of peaceful assembly and of association published a response to an official request submitted in July 2012 by the Helsinki Human Rights Foundation to examine the impact of the revised law. The special rapporteur regretted that he did not receive a reply to his communications from the government and expressed concern that some provisions of the amendment “may operate [as] a setback in the enjoyment of the rights to freedom of peaceful assembly and of association.” The Constitutional Court did not address the ombudsman’s complaint, and the government had not responded to the special rapporteur by year’s end.

### **Freedom of Association**

The constitution provides for freedom of association, and the government generally respected this right.

### **c. Freedom of Religion**

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt/](http://www.state.gov/j/drl/irf/rpt/).

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The constitution and the law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

### **Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

Safe Country of Origin/Transit: The law permits denial of refugee status based on safe country of origin or safe country of transit but includes provisions that allow authorities to consider the protection needs of individuals with exceptional cases.

Refugee Abuse: In addition to the guarded centers for foreigners (see section 1.d.), the government operated 11 open centers for asylum seekers with an aggregate capacity of approximately 2,000 persons in the Warsaw, Bialystok, and Lublin areas. Some incidents of gender-based violence occurred, but the UNHCR reported that local response teams involving doctors, psychologists, police, and social workers addressed these cases. The UNHCR reported no major or persistent problems with abuse in the centers.

Employment: Although persons granted asylum or refugee status had the right to work, they experienced difficulties finding jobs, due in part to poor integration programs.

Access to Basic Services: According to the UNHCR, conditions in centers for asylum seekers were modest but were improving gradually and met necessary requirements. Access to basic medical care was satisfactory, although asylum seekers complained about lengthy delays in accessing specialist care in some centers. Asylum seekers faced language and cultural barriers and had limited access to higher education. Children in centers for asylum seekers had free access to public education, but those placed with relatives in guarded centers for foreigners did not.

## **Stateless Persons**

According to the 2011 national census, 2,020 persons declared themselves stateless, and an additional 8,805 could not demonstrate their citizenship due to a lack of identity documents or an inability to confirm their identity in their country of origin. According to the UNHCR, the actual figure was likely higher, since the census might not have reached all the stateless persons in the country.

During the first half of the year, 19 stateless persons applied for refugee status, and authorities granted refugee status to 12 persons.

A child acquires citizenship at birth if at least one parent is a citizen, regardless of where the birth took place. Children born or residing in the country with parents of unknown or stateless origin may also obtain citizenship.

According to the UNHCR, the law does not have any significant gaps that contribute to statelessness.

The UNHCR occasionally received complaints from stateless persons about problems with unemployment. The principal complaint involved the lack of identity documents, which discouraged employers from offering employment to stateless persons.

### **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections based on universal suffrage.

#### **Elections and Political Participation**

Recent Elections: Observers considered the parliamentary elections held in 2011 free and fair. The Office for Democracy Institutions and Human Rights reported that the elections were pluralistic and democratic with a high degree of public confidence in all stages of the election process.

Participation of Women and Minorities: The law mandates that neither gender represent more than 65 percent of the candidates on political parties' election lists. As of November 26, women occupied 112 of the 460 seats in the Sejm and 13 of the 100 seats in the Senate. Three women sat in the 19-member Council of Ministers. In the European Parliament, 11 of the country's 51 members were women.

In the 2011 parliamentary elections, two candidates of African descent as well as the first transgender and the first openly gay candidates won seats in the Sejm. The law exempts parties of historic ethnic minorities, including Belarusian, Czech, Lithuanian, German, Armenian, Russian, Slovak, Ukrainian, and Jewish parties from the requirement that they must receive 5 percent of the vote nationwide to qualify for seats in individual districts. Based on this exemption, one member of a historic ethnic minority won a seat in the Sejm (a representative of the German minority in Silesia) but none to the Senate. The government's cabinet contained no members of minority groups.

### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials; however, the government did not always implement these laws effectively, and officials sometimes engaged in corrupt practices. There were some reports of government corruption during the year.

Corruption: On September 29, Internal Security agents arrested the mayor of Tarnow, Ryszard Scigala, for allegedly accepting a 50,000-zloty (\$16,000) bribe from a road construction consortium in 2010. The mayor, who pled “not guilty,” faced a maximum sentence of eight years in prison if convicted. Police also arrested a city official involved in the tender process and five owners of construction companies for their alleged involvement in bid rigging and collusion that, according to media reports, added 25 million zloty (\$8.1 million) to the costs of the construction of the east-west A4 motorway in southern Poland.

From November 19-21, the CBA arrested approximately 20 persons – including former interior minister Witold Drodzdz, the vice president of the Chief Statistical Office (GUS), and the director of the office of the Ministry of Foreign Affairs responsible for public tenders – on charges of corruption related to more than 100 public tenders for information technology (IT) projects in a variety of public institutions. Most of the other detainees worked for IT companies. The Warsaw district court ordered the GUS vice president and the foreign ministry official into pretrial detention.

Several government bodies are responsible for combating corruption. The CBA has broad powers to audit the financial holdings of public officials and fight corruption in public procurement. It also has authority to conduct searches, secretly videotape, and tap telephone conversations as well as to make arrests. The CBA actively collaborated with civil society, operated effectively and independently, and had sufficient resources.

Although the courts did not convict any serving government officials of corruption, authorities continued investigations into possible corruption involving government officials. Local NGOs criticized the lack of a national anticorruption strategy.

On November 28, Deputy Defense Minister for Armaments and Modernization Waldemar Skrzypczak resigned after the November 23 edition of daily *Gazeta Wyborcza* published a March 5 letter from Skrzypczak to an official in the Israeli Ministry of Defense requesting cooperation with Israeli manufacturer Elbit Systems on unmanned aerial systems in advance of a formal tender. Media

reported in late September that prosecutors opened an investigation into possible corruption by Skrzypczak, who supervised procurement worth millions of dollars for the armed forces. As of December 2, the investigation continued.

Whistleblower Protection: The law provides limited protection to public and private employees for making internal disclosures or lawful public disclosures of evidence of illegality. The protection provisions apply only to employees with full-time labor contracts. According to the Batory Foundation, judges had difficulty determining a causal link between an employee's disclosure of negative information and subsequent retaliation by the employer.

Financial Disclosure: Financial disclosure laws oblige public officials to submit financial statements about their and their spouses' financial assets, real property, stocks, and bonds. The law does not apply to assets or income of dependent children. With the exception of certain situations provided for under the law, the regulations protect information included in financial statements as "restricted access" information that can only be made public with the written permission of the provider. The law requires officials to file financial disclosures before they take office, on the day they leave office, and each year prior to March 31 but does not require filing when changes occur in their holdings.

On November 15, Slawomir Nowak resigned his post as transport minister after the Prosecutor General's Office received a request from the Warsaw district prosecutor's office to lift Nowak's parliamentary immunity so that it could continue an investigation launched in May into alleged irregularities in his public financial disclosures. Nowak continued to serve as a Sejm deputy, but he surrendered his parliamentary immunity on November 21.

Public Access to Information: The constitution and law provide for public access to government information, and the government generally provided such access to citizens and noncitizens, including foreign media. The law requires that the government base any refusal of an information request on exceptional circumstances related to government secrets, personal privacy, or proprietary business data. Requesters may appeal refusals.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on



human rights cases. Government officials were cooperative and responsive to their views.

Government Human Rights Bodies: The country's independent ombudsman for citizen rights presents an annual report to the Sejm on the state of human rights and civic freedom in the country. The ombudsman generally had adequate resources and enjoyed the government's cooperation. Human rights observers considered him effective. The ombudsman received approximately 500,000 zloty (\$161,000) in funding for the year to cover monitoring implementation of the principle of equal treatment and to support victims of discrimination. In 2012 the ombudsman reported receiving 62,400 cases, an increase of 4,123 from 2011.

The government plenipotentiary for equal treatment had a mandate to counter discrimination and promote equal opportunity for all. The plenipotentiary was subordinate to the Prime Minister's Office and did not have the same institutional independence as the ombudsman.

Both chambers of parliament have committees on human rights and the rule of law. The committees serve a primarily legislative function and are composed of representatives from multiple political parties.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The constitution prohibits discrimination in "political, social, and economic life for any reason whatsoever." The law prohibits discrimination on the grounds of gender, age, disability, race, nationality, trade union membership, ethnic origin, and sexual orientation.

The law requires the ombudsman for citizen rights to monitor implementation of the principle of equal treatment and to support victims of discrimination. The ombudsman and NGOs asserted that some provisions of the antidiscrimination law might be unconstitutional, since they do not treat all groups equally, providing greater protection against discrimination on grounds of race, ethnicity, and gender than on disability, sexual orientation, or age.

### **Women**

Rape and Domestic Violence: Rape, including spousal rape, is illegal and punishable by up to 12 years in prison. Stalking is punishable by up to 10 years in prison. According to national police statistics, during the first half of the year there

were 670 reported cases of rape. NGOs, however, estimated that the actual number of rapes was much higher because women often were unwilling to report incidents due to social stigma. During the same period, police forwarded 219 possible rape cases to prosecutors and 35 to family courts (for underage offenders) for indictment. On June 13, parliament adopted a revision of the criminal code to allow prosecutors or police to initiate an investigation *ex officio* even without a formal complaint filed by the victim.

While courts can sentence a person convicted of domestic violence to a maximum of five years in prison, most of those found guilty received suspended sentences. The law permits authorities to place restraining orders on spouses to protect against abuse without prior approval from a court, but police do not have the authority to issue immediate restraining orders at the scene of an incident.

During the first half of the year, police identified 8,004 cases of domestic violence (938 fewer than the same period in 2012). Authorities forwarded 7,358 of these for prosecution (74 fewer than the same period in 2012). During the first six months of the year, police reported that officers conducted 27,708 interventions related to domestic violence (3,619 more than the same period in 2012). According to prison authorities, at the end of September, 4,430 individuals were serving prison sentences for crimes related to domestic violence.

According to some women's organizations, the statistics understated the number of women affected by domestic violence, particularly in small towns and villages. The Women's Rights Center reported that police were occasionally reluctant to intervene in domestic violence incidents if the perpetrator was a police officer or if victims were unwilling to cooperate.

The law requires every municipality in the country to set up an interagency team of experts to deal with domestic violence. According to some NGOs, this requirement might actually have worsened the situation because the interagency teams focused on resolving the "family problem" rather than initially treating claims of domestic violence as criminal matters. The NGOs also believed the additional work required by the new procedures discouraged police from classifying cases as domestic violence and might have contributed to the reduction in reported cases during the year. On July 15, the supreme audit chamber noted that the establishment of interagency teams delayed assistance to victims of violence and that the procedures for granting assistance were excessively bureaucratic and time consuming. As of year's end, the government had not addressed the supreme audit chamber's criticisms.

Centers for victims of domestic violence operated throughout the country. In 2012, the most recent year for which statistics were available, local governments provided victims and their families with legal and psychological assistance and operated 209 crisis centers and 12 shelters for pregnant women and mothers with small children. In addition local governments operated 35 specialized centers funded by the government's National Program for Combating Domestic Violence. The centers provided social, medical, psychological, and legal assistance to victims; training for personnel who worked with victims; and "corrective education" programs for abusers. In 2012 the government allocated approximately 12.5 million zloty (\$4.0 million) for the centers' operating costs.

During the year the government spent 4.1 million zloty (\$1.3 million) on programs to combat domestic violence, primarily corrective education programs for abusers and training for social workers, police officers, and specialists who were the first contacts for victims of domestic violence. In addition, the Ministry of Labor and Social Policy spent 260,000 zloty (\$84,000) to organize a conference, conduct a national public awareness campaign, and undertake research on the problem of domestic violence. Regional governments spent almost 1.7 million zloty (\$548,000) on training first responders. The government also spent approximately 670,000 zloty (\$216,000) on combating domestic violence under the "safer together" program and 150,000 zloty (\$48,000) for a hotline for children and young persons operated by the Nobody's Children Foundation, a Warsaw-based NGO.

Sexual Harassment: The law prohibits sexual harassment and violations carry penalties of up to three years in prison. The law defines sexual harassment as discriminatory behavior in the workplace, including physical, verbal, and nonverbal acts violating an employee's dignity.

According to the Women's Rights Center, sexual harassment continued to be a serious and underreported problem. Many victims did not report abuse or withdrew harassment claims in the course of police investigations due to shame or fear of losing their job. The media reported some high-profile cases of sexual harassment. During the first six months of the year, police reported 36 cases of sexual harassment, compared with 46 cases during the first six months of 2012.

Reproductive Rights: The government generally recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. While there were no restrictions on the right to obtain

contraceptives, some NGOs believed their use was limited because the government excluded prescription contraceptives from its list of subsidized medicines, which made them less affordable. Some NGOs also believed that religious factors, such as the strong influence of the Roman Catholic Church, affected the use of contraceptives. The law does not permit voluntary sterilization. The government permitted health clinics and local health NGOs to provide information on family planning, including information about contraception, under the guidance of the Ministry of Health.

Discrimination: The constitution provides for equal rights for men and women and prohibits discrimination against women, although few laws exist to implement the provision. According to the government plenipotentiary for equal treatment, women have a worse situation in the labor market in comparison with men. A 2012 report by the central statistics office showed that women had a higher rate of unemployment and earned less than men. According to a European Commission report, the gender wage gap in 2011, the latest year for which data was available, was 4.5 percent.

The plenipotentiary for equal treatment had a mandate to counter discrimination and promote equal opportunity for all. The plenipotentiary prepared the “National Plan for Equal Treatment for the Years 2013-2016” in September and presented it to the Council of Ministers on December 10. The plan identifies the main objectives and policies for equal treatment, including detailed actions to improve gender equality in the labor market. The Ministry of Labor and Social Policy continued to promote gender mainstreaming in the labor market, including providing support for the Congress of Women and funding public awareness campaigns.

## **Children**

Birth Registration: A child acquires citizenship at birth if at least one parent is a citizen, regardless of where the birth took place. Children born or found in the country, whose parents were unknown or stateless, are also citizens. The government has a system of universal birth registration immediately after birth.

Child Abuse: The constitution and the law prohibit violence against children and provide for prison sentences ranging from three months to five years for violations. There were reports of child abuse, but convictions were rare.

A government ombudsman for children's rights issued periodic reports on problems affecting children, such as pedophilia on the internet, the need for better access to public schools for children with disabilities, and the need for improved medical care for children with chronic diseases. The ombudsman's office also operated a 24-hour hotline for abused children. In 2012 the ombudsman received 24,955 complaints of infringements of children's rights under the country's laws, a decrease of 4,301 from 2011. Of that number, 60 percent concerned the right to be brought up in a family (citing factors such as limitation of parental rights through divorce and the need for better material support for foster families), almost 18 percent concerned the right to protection against abuse, 12 percent concerned the right to education, and 5 percent concerned the right to adequate social conditions.

Forced and Early Marriage: The country's legal minimum age of marriage is 18 years for women and men, although the guardianship court may grant permission for girls as young as 16 to marry under certain circumstances. In 2012 the courts received 559 requests for permission for girls between the ages of 16 and 18 to marry, and approved 415 of them. In 2011 the total number of requests was 630, and courts approved 520 of them.

Sexual Exploitation of Children: The law prohibits sexual intercourse with children younger than 15. The penalty for statutory rape ranges from two to 12 years' imprisonment. Child pornography is also illegal. According to the Ministry of Justice, in 2012 the courts convicted 630 persons of sexual intercourse with persons younger than age 15 and 44 persons of pimping with the involvement of a minor.

The production, possession, storage, or importation of child pornography is punishable by imprisonment for a period of three months to 10 years. During the first six months of the year, police arrested 21 persons and confiscated computers and pornographic materials in a nationwide operation against child pornography and pedophiles. In 2012 authorities arrested 73 persons for child pornography. Information from authorities in other countries was usually the basis for nationwide operations. Successful prosecution of child pornography remained a challenge due to a lack of experience in prosecuting complex computer-based crimes based on digital evidence.

According to the government and the Nobody's Children Foundation, a leading NGO dealing with trafficking in children, trafficking in children for sexual exploitation remained a problem.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's annual report on compliance at [www.travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://www.travel.state.gov/abduction/resources/congressreport/congressreport_4308.html), as well as country-specific information at [www.travel.state.gov/abduction/country/country\\_3781.html](http://www.travel.state.gov/abduction/country/country_3781.html).

## **Anti-Semitism**

The Union of Jewish Communities estimated the Jewish population at approximately 20,000. Anti-Semitic incidents continued to occur, often involving desecration of significant property, including synagogues and Jewish cemeteries. In February unknown persons spray painted a Star of David over a gallows and the inscription "Kalisz without Jews" on a Jewish cemetery in western Poland.

On July 1, the Bialystok district prosecutor initiated a procedure to dismiss the head of the Bialystok-North local prosecutor's office. After reviewing almost 30 cases involving xenophobia or racism that occurred in Bialystok between May 20 and June 26, the district prosecutor determined that the local prosecutor's office made mistakes in eight of the cases by discontinuing them or refusing to initiate an investigation. The local prosecutor's decision not to open an investigation of swastikas painted on electrical transformers caused public outrage.

In September unknown persons hung a series of anti-Semitic posters at various locations in Lublin. Each poster featured the Star of David displayed next to a picture of one of several prominent individuals, including the editor in chief of a local newspaper, the mayor of Wroclaw, and well-known civil society activists. Krzysztof Zuk, the mayor of Lublin, issued a statement condemning the posters and appealed to prosecutors and police to undertake immediate action to identify and prosecute the perpetrators.

On November 28, the Warsaw prosecutor's office discontinued an investigation into the defamation of Foreign Minister Radoslaw Sikorski due to alleged anti-Semitic comments about his family posted on the internet in 2011. Linguistic experts analyzed 2,500 comments on internet portals, identifying 50 that were considered offensive on the basis of "national or ethnic identity." Since prosecutors were only able to identify one person from the dozens of potential commentators interviewed, the prosecutor's office determined prosecution was not warranted. In January a Warsaw court had ordered the Warsaw district

prosecutor's office to reopen a criminal investigation after the prosecutor's office discontinued a previous investigation in July 2012.

During the year anti-Semitic behavior sometimes occurred at sporting events. On October 2, the Poznan prosecutor's office initiated an investigation into possible incitement to hatred on national or racial grounds following an incident at a September 29 soccer match in Poznan. During the game a group of soccer fans of the Lech Poznan club shouted anti-Semitic slogans against the RTS Widzew Lodz soccer team and its fans ("Auschwitz is your home..., Out with the Jews..., RTS [Widzew] to the gas [chambers]").

On October 14, the Warsaw-Srodmiestie district court found 17 soccer fans guilty of public incitement to hatred on national grounds for chanting in German "Hamas, Hamas... Jews to the gas [chambers]" during a 2011 soccer match between RTS Widzew Lodz and Legia Warszawa. The judge ordered the fans to perform community service, donate money to the Union of Jewish Communities, and watch the Polish movie *Cud Purymowy* (Purim Miracle), in which a soccer fan believed that Jews caused all his troubles but later discovered his own Jewish roots.

A court decision voiding an administrative exemption to the 2002 Animal Rights Protection Act had the effect of prohibiting kosher and halal slaughter beginning in January. On July 12, the Sejm defeated a government bill that would have reinstated the practice. Roman Catholic clerics joined their Jewish and Muslim counterparts in protesting the ban. On August 30, Jewish community leaders appealed to the Constitutional Court to consider the constitutionality of the ban. By the end of the year, the Constitutional Court had not issued a ruling. Prosecutors did not enforce the law during the year.

In January, Holocaust survivors, politicians, and religious leaders gathered to mark International Holocaust Remembrance Day.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities in employment, education, air travel and other

transportation, access to health care, or the provision of other government services. While the government effectively enforced these provisions, there were reports of some societal discrimination against persons with disabilities. The government restricted the right of persons with certain mental disabilities to vote or participate in civic affairs.

The law states that buildings should be accessible for persons with disabilities, and at least three laws require retrofitting of existing buildings to provide accessibility. Many buildings remained inaccessible to persons with disabilities, however, because regulations do not specify what constitutes an accessible building. Public buildings and transportation generally were accessible, although older trains and vehicles were often less accessible to persons with disabilities, and many train stations were not fully accessible for persons with all types of disabilities.

The law specifies that children with disabilities have the right to attend all levels and types of school. In cases where there was no school nearby to accommodate a child with disabilities, the child had alternatives, such as independent schooling by teachers at the child's home.

The Ministry of Labor and Social Policy is responsible for disability-related matters. During the year the government plenipotentiary for persons with disabilities organized training sessions for central and local government officials to encourage them to hire persons with disabilities. The government fund for rehabilitation of persons with disabilities continued a nationwide campaign encouraging companies to employ persons with disabilities. The fund granted money to NGOs to organize media campaigns on the rights of persons with disabilities.

### **National/Racial/Ethnic Minorities**

The constitution gives ethnic groups who have been living on the territory of present-day Poland for more than 100 years explicit rights to preserve their own language, customs, and culture. The law recognizes nine “national minorities” (Belarusian, Czech, Lithuanian, German, Armenian, Russian, Slovak, Ukrainian, and Jewish) and four “ethnic minorities” (Karaim, Lemka, Roma, and Tatar). In addition to the constitutionally provided rights to both national and ethnic minorities, national minorities are exempt from the 5 percent minimum threshold requirement for winning seats in parliament. The law also contains several provisions against hate crimes and inciting violence based on ethnic origin, but government enforcement efforts were sometimes ineffective.



A number of xenophobic and racist incidents occurred during the year, and the government and local NGOs reported a noticeable increase in the total number of hate crimes. Civil society representatives partly attributed the rise to better government tracking of hate crime incidents and increased media attention to the problem. Prosecutors investigated 473 hate crime cases in 2012, compared with 322 in 2011. Of these, 119 involved the internet, 60 were racist graffiti on walls or buildings, monuments and graves, 37 involved sports fans or athletes, 15 occurred at demonstrations or assemblies, eight involved press and book publications, and seven concerned television and radio programs. The government, while quick to denounce hate crimes, was frequently unable to find the perpetrators of such incidents. On July 4, the prosecutor general declared that every district would have one or two prosecutors who would focus on investigating and prosecuting hate crimes. On September 18-19, the Ministry of Administration and Digitalization and the Council of Europe hosted a conference on hate speech in Warsaw, and on September 24-26, the Prosecutor General's Office conducted training for prosecutors on dealing with hate crimes.

Two arson attacks against ethnic minorities occurred within a month of each other in Bialystok. On April 15, unknown perpetrators tried to set fire to the door of an apartment rented by a Chechen family. On May 8, unknown perpetrators tried to set fire to an apartment occupied by a Polish-Hindu family. Interior Minister Bartlomiej Sienkiewicz warned neofascist skinheads that "we are coming after you...using every available method."

On August 18, soccer fans associated with the Ruch Chorzow club attacked Mexican sailors on a beach in Gdynia. Witnesses reported that the attackers also shouted racist epithets at the sailors. The Mexican foreign ministry condemned the attack. Prime Minister Tusk met with the interior and justice ministers as well as representatives of the Prosecutor General's Office to urge them to coordinate a more effective response to soccer hooliganism. On December 23, the Gdynia local court opened a trial of seven soccer fans who allegedly participated in the attack. They faced up to three years' imprisonment for assault and unlawful assembly.

On July 22, the Bialystok local court ruled that a border guard officer who posted negative comments about Chechens on the internet was not guilty of inciting hatred on national grounds. The case involved internet entries posted in 2009-11 in which the officer referred to Chechens as "parasitic scoundrels," "Caucasian idlers," and "followers of a pedophile."

Societal discrimination against Roma continued to be a problem. The 2011 national census recorded 16,723 Roma, although an official government report on the Romani community estimated that 20,000-25,000 Roma resided in the country.

There were reports that some local officials discriminated against Roma by denying them adequate social services. Romani leaders complained of widespread discrimination in employment, housing, banking, the justice system, the media, and education. In August approximately 1,500 internet users joined a Facebook page calling for the expulsion of Roma from the town of Andrychow in southern Poland. The campaign began after an August 13 incident in which a 16-year-old Romani teenager allegedly beat a 12-year-old boy and tried to steal his bicycle. On October 5, a dozen men with baseball bats and torches assaulted a Romani family in Lodz and attempted to set fire to their apartment. Police arrested six suspects. On November 22, the trial began in a lawsuit brought by the Wroclaw municipality against a group of 47 Roma. The lawsuit alleged that the Roma had unlawfully settled in a Wroclaw housing district and requested that the court expel them.

According to the Ministry of Administration and Digitalization, during the 2011-12 school year, 2,800 of the 3,224 Romani children who were six to 16 years old, and therefore required to attend school, were enrolled. Romani organizations and the Ministry of Education reported that authorities, particularly in southern provinces, continued to send many Romani children to schools for children with mental disabilities without cause.

While at the national level approximately 80 percent of Roma were unemployed, levels of unemployment in some regions reached nearly 100 percent.

The government allocated approximately 10 million zloty (\$3.2 million) to its annual program for Roma, which included educational and other projects to improve health and living conditions and reduce unemployment. The program also focused on civic education and provided grants for university and high school students.

There were also isolated incidents of racially motivated violence including verbal and physical abuse directed at persons of African, Asian, or Arab descent. The Ukrainian and Belarusian minorities continued to experience petty harassment and discrimination. Extremist groups, while still small in number, maintained a public presence in high-profile marches and on the internet, and disrupted lectures or debates on issues that they opposed.

## **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

The constitution does not prohibit discrimination on the grounds of sexual orientation, although the laws on discrimination in employment cover sexual orientation and gender identity. Hate crime and incitement laws do not include gender identity or sexual orientation. The prime minister's plenipotentiary for equal treatment monitors LGBT issues. The ombudsman for citizen rights monitors and promotes equal treatment and support for victims of discrimination on all grounds.

NGOs reported increasing acceptance of LGBT persons by society and the government, but they also stated that discrimination was still common in schools, workplaces, hospitals, and clinics. During the year there were some reports of skinhead violence and societal discrimination against LGBT persons; NGOs maintained that most cases went unreported.

On May 18, approximately 400 counterdemonstrators tried to disrupt Krakow's ninth annual equality march, which had approximately 300 participants and was one of several LGBT marches held in the country during the year. Police arrested three counterdemonstrators.

On June 15, after Warsaw's 12th equality parade, the first openly gay member of the parliament, Robert Biedron, reported that a man physically attacked him at a cafe in central Warsaw. Prosecutors charged the alleged assailant with battery. On June 18, the court required the attacker to undergo a psychiatric examination before the case could resume. On October 24, the Warsaw court opened a trial against the defendant, which continued through the end of the year.

The government took several steps during the year to respond to societal discrimination on the basis of sexual orientation and gender identity. The law requires the ombudsman to monitor and promote equal treatment and to support victims of discrimination on all grounds. During the year the ombudsman received funding to implement these obligations.

On May 13, the government plenipotentiary for equal treatment granted official patronage to the new publication, *Equality Lesson*, which focused on the problem of homophobia in schools. The handbook, addressed to teachers and school directors, also provided guidelines and resources for anti-intolerance education. A

Campaign against Homophobia report in 2012 found that 76 percent of LGBT students were victims of verbal assault and 25 percent suffered physical violence.

### **Other Societal Violence or Discrimination**

During the first six months of the year, the government's AIDS center received no complaints of discrimination against persons with HIV/AIDS.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The constitution and the law provide that most workers, including civilian employees of the armed forces, police, and border guards have the right to establish and join independent trade unions without previous authorization or excessive requirements and to bargain collectively. The 2013 report of the International Labor Organization's (ILO's) Committee of Experts on the Application of Conventions and Recommendations, noted that the law does not conform with ILO convention 87, as it does not give the right to unionize to persons who entered into an employment relationship on the basis of a civil law contract. The report also called attention to limits on trade union rights for some civil servants. As of November 30, the government had not adopted new legislation to address the ILO's concerns. Foreign and documented migrant workers also have the right to unionize. Self-employed workers and workers on civil law contracts cannot form a union, and some categories of government workers (police officers, border guards, prison guards, and employees of the supreme audit office) are limited to a single union.

The constitution provides for the right of trade unions to organize workers' strikes or other forms of protest but specifies that specific laws may in the public interest limit or forbid the conduct of strikes by specified categories of employees or in specific areas. The law places some conditions on strikes: 50 percent of employees at the company and industry level must vote in favor, and a strike may not be called earlier than 14 days after the workers present their demands to the employer. The law obligates employers to notify the district inspection office in their region about a group dispute in the workplace. Workers in services deemed essential, such as security forces, the Supreme Chamber of Audit, police, border guards, and fire brigades, do not have the right to strike. These workers have the right to protest and seek resolution of their grievances through mediation and the court system. This list of "essential services" exceeded the ILO's definition.

Cumbersome procedures made it difficult for workers to meet all of the technical requirements for a legal strike. Labor courts acted slowly in deciding the legality of strikes, while sanctions against unions for calling illegal strikes and against employers for provoking them were minimal. Unions alleged that the government did not consistently enforce laws prohibiting retribution against strikers and that the small fines imposed as punishment were ineffective deterrents to employers. In 2012 the National Labor Inspectorate (NLI) registered 301 disputes, compared with 365 disputes in 2011.

The constitution and the law provide for and protect enterprise-level collective bargaining over wages and working conditions, although some civil servants, appointed or elected employees of state and municipal bodies, court judges, and prosecutors do not have collective bargaining rights. The law provides for parties to take group disputes to formal mediation, then to the Board of Social Arbitration in either a district court or Supreme Court, depending on the number of employers involved, and, as a last resort, to strike. Key public-sector employers may not negotiate with labor without the extensive involvement of the ministries to which they are subordinate.

The law allows unions to conduct their activities without interference. It prohibits antiunion discrimination, although the constitution only provides for the freedom of association in trade unions. Trade unions reported that the law does not provide adequate means of protection against discrimination. The law prohibits some categories of government workers from holding union office.

On October 7, the Lodz prosecutor's office indicted the director of the District Labor Office in Kutno for violating the labor rights of 11 employees. Prosecutors alleged that the director dismissed the employees between July 2011 and April 2013 for being members of the Solidarity trade union. A labor court ordered the reinstatement of the workers; the criminal trial for the office director remained pending.

While many workers exercised the right to organize and join unions, many small- and medium-sized firms, which employed a majority of the workforce, discriminated against those who attempted to organize. The government sometimes failed to protect these workers. Newly established small- and medium-sized firms were generally nonunion, while privatized, formerly state-owned enterprises frequently continued union activity.

Labor leaders also reported that employers frequently discriminated against workers who attempted to organize or join unions, particularly in the private sector. Discrimination typically took the forms of intimidation, termination of work contracts without notice, and closing the workplace. The law did not prevent employer harassment of union members for trade union activity; there were unconfirmed reports that some employers sanctioned employees who tried to organize unions.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor. The government effectively enforced the law. Under the law foreign citizens who had been working illegally in the country could obtain the right to work legally if they applied between January and July 2012. Those who qualified were given residency and work permits for two years. As a result, 9,555 foreign citizens applied for legal residency. By June 2012 the government had approved residency permits for 4,593 persons and denied applications for 3,012 persons.

In 2012, the last year statistics were available, the government-funded national intervention-consultation center for victims of trafficking assisted 198 victims of trafficking of whom 54 were victims of trafficking for forced labor. There were reports that employers subjected men and boys to forced labor in the agricultural, manufacturing, and food processing sectors. During the year there were also reports of Romanian citizens being trafficked for forced begging and forced labor at open markets and of the recruitment of Vietnamese citizens for forced labor in garment factories.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/](http://www.state.gov/j/tip/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits the employment of children under the age of 16, with exceptions in the cultural, artistic, sporting, and advertising fields when parents or guardians and the local labor inspector give their permission. Persons between the ages of 16 and 18 may work only if they have completed middle school, if the proposed employment constitutes vocational training, and if the work is not harmful to their health.

The NLI reported that minors worked and that many employers underpaid them or delayed their pay. During the first half of the year, the inspectorate conducted 540 inspections involving 2,407 underage employees (16 to 18 years of age), compared with 534 inspections involving 2,330 underage employees during the same period in 2012. Authorities levied fines totaling 159,650 zloty (\$51,100) in 140 cases. According to the NLI, employers implemented 95 percent of all labor inspection decisions, although a report by the NLI indicated that some legal requirements, such as the requirement in some sectors that a company receive seven days advance notification of upcoming inspections, weakened the effectiveness of labor inspections.

The majority of employees found to be underage worked in commercial enterprises, repair shops, processing industries, restaurants, and construction.

#### **d. Acceptable Conditions of Work**

A tripartite commission composed of unions, employers, and government representatives was the main forum that determined minimum national wage and benefit increases in sectors such as social services. The national monthly minimum wage, which took effect in January, was 1,600 zloty (approximately \$512). According to the Institute of Labor and Social Studies, the social minimum monthly income level for one person was 1,032 zloty (\$330) and 3,381 zloty (\$1,082) for a family of four in December 2012. The subsistence level in 2012 was 521 zloty (\$167) for one person and 1,771 zloty (\$567) for a family of four. The large size of the informal economy – particularly in the construction and transportation industries – and the low number of government labor inspectors made enforcement of the minimum wage difficult. A large percentage of construction workers and seasonal agricultural laborers from Ukraine and Belarus earned less than the minimum wage. The law requires equal pay for equal work as well as equal treatment with respect to signing labor contracts, conditions of employment, promotion, and access to training. The law defines equal treatment as nondiscrimination in any way, directly or indirectly on the grounds of gender, age, disability, race, religion, nationality, political opinion, ethnic origin, denomination, sexual orientation, whether or not the person is employed temporarily or permanently, full time or part time. The law further specifies that an unfavorable system of remuneration for work or other conditions of employment is a violation of the principle of equal treatment. These provisions were difficult to enforce in the courts.

The law provides for a standard workweek of 40 hours, with an upper limit of 48 hours including overtime. It requires premium pay for overtime hours, but there were reports that employers often ignored this requirement. It prohibits excessive and compulsory overtime and sets a maximum of 150 hours of overtime per year. The law provides for workers to receive at least 11 hours of uninterrupted rest per day and 35 hours of uninterrupted rest per week. The constitution provides every employee the right to statutorily specified days free from work as well as annual paid holidays. The law also provides for 20 days of paid annual holidays for employees with fewer than 10 years of work experience and 26 days for those employed for at least 10 years.

The law defines strict and extensive minimum conditions to protect worker health and safety. It empowers the NLI to supervise and monitor implementation of worker health and safety laws and to close workplaces with unsafe conditions. In 2012 there were approximately 1,700 labor inspectors, the same number as in 2011. During the first six months of the year, labor inspectors conducted 27,119 inspections of work health and safety conditions, compared with 64,484 inspections in all of 2012. There have been no reports of corruption among labor inspectors.

The NLI was unable to monitor workplace safety adequately. In the first half of the year, the Central Statistical Office reported 38,428 victims of workplace accidents, a decrease of almost 2,000 from the same period in 2012. The highest number of victims worked in industrial processing, retail and wholesale trade, auto repair, and construction. In 2012 the inspectorate investigated 1,826 accidents in which there were 2,130 injuries, including 332 workers killed and 724 persons seriously injured. The NLI reported that most of the injuries occurred in the industrial processing and construction industries. During the year the NLI implemented a public awareness campaign targeted at workplace safety in the construction industry. It also offered a work health and safety program to small companies to ensure they met minimum standards. The NLI conducted numerous professional training courses for labor inspectors to better develop their skills and knowledge in the area of labor protection. Workplace accidents and deaths have declined since 2011.

Employers routinely exceeded standards limiting exposure to chemicals, dust, and noise. According to the inspectorate's 2012 report, inadequate training of employees, the poor quality of job-related risk assessment tools, and inadequate measures by employers to prevent accidents were the leading causes of workplace accidents. The majority of accidents occurred in the industrial processing (mining



and metalworking) and construction industries. The most frequent labor rights violations concerned failure to pay or delayed payment of wages. Most wage payment violations occurred in the services, construction, and processing industries. Seasonal workers were particularly vulnerable to such violations. The national inspectorate's report did not cover domestic workers because inspectors could only conduct inspections in businesses, not private homes. The second most common problem was inaccurate timekeeping records for hours worked.